

PREPARED BY: Nikki Swope
 DATE PREPARED: February 24, 2020
 PHONE: 402-471-0042

LB 1133

Revision: 01

Revised to include the University of Nebraska response

FISCAL NOTE
 LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2020-21		FY 2021-22	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See below	See below	See below	See below

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB1133 relates to the Nebraska Hospital-Medical Liability Act (NHMA). The bill proposes increasing the caps on medical malpractice liability for all healthcare providers, effective January 1, 2020, in addition to adding provisions relating to proof of financial responsibility and to address the Excess Liability Fund requisites.

It is anticipated that this bill would increase the insurance premiums paid by healthcare providers, however, the actual cost for all the providers cannot be determined with the known information.

The Department of Administrative Services (DAS) makes the assumption that the increase in cost incurred by providers would be passed along to healthcare insurance consumers thus increasing the cost of the State of Nebraska’s medical plan premiums. The increased cost of dental and vision plan would be wholly paid by the state employees. Due to that the cost to healthcare providers as proposed by this bill and the resulting impact to healthcare plans cannot be determined, there is an unknown fiscal impact.

The University of Nebraska estimates an increase of UMNC’s annual premiums by \$500,112. Furthermore, the bill would increase the total amount recoverable to ten million dollars for any occurrence after December 31, 2020; therefore the estimated payment based on the current rate of 45%, is estimated to be \$523,000. UMNC would need to pay the current rate plus half of the difference of the increased rate in FY21 as the bill has a start date of December 31, 2020. The full amount of the increased cap for FY22 is estimated to be \$770,112. There is no basis to disagree with this assumption.

Additionally, one of the Department of Insurance’s duties is to review and approve all rate and policy filings. It is anticipated that all existing medical malpractice insurance policies will be replaced due to the increased caps as outlined in the bill. Insurers will need to collect data prior to submitting the new rate and policy to the Department for review. As this bill is retroactive to January 1, 2020, it is anticipated that the increased volume and timing will necessitate the Department to utilize outside contractors to assist with the review and approval process. The Department’s estimated cost to retain such consultants is approximately \$24,000. There is no basis to disagree with this estimate.

The Department of Insurance notes that the Nebraska Hospital-Medical Liability Act Excess Liability Fund will see increased revenues and expenditures as surcharge payments in and claim payments out will likely be increased. The revenues and expenditures cannot be calculated at this time; however, it is anticipated that should balance out as the Department sets surcharge rates for participants in the fund annually that are intended to cover anticipated costs. The surcharge rate is not intended to maintain a cash balance in the fund, and as such the increases in revenues and expenditures should offset each other over time.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1133	AM:	AGENCY/POLT. SUB: Department of Administrative Services
REVIEWED BY: Neil Sullivan	DATE: 1/31/2020	PHONE: (402) 471-4179
COMMENTS: The Department of Administrative Services estimate of enterprise fiscal impact from LB 1133 appears reasonable.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1133	AM:	AGENCY/POLT. SUB: Department of Insurance
REVIEWED BY: Neil Sullivan	DATE: 2/11/2020	PHONE: (402) 471-4179
COMMENTS: The Department of Insurance assessment of fiscal impact from LB 1133 including indeterminate Excess Liability Fund impact appears reasonable.		

Please complete ALL (5) blanks in the first three lines.

2020

LB⁽¹⁾ 1133

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Department of Administrative Services (DAS)
- Employee Wellness & Benefits

Prepared by: ⁽³⁾ Jennifer Norris Date Prepared: ⁽⁴⁾ 1/24/2020 Phone: ⁽⁵⁾ 402/471-4443

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2020-21</u>		<u>FY 2021-22</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
REVOLVING FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>See below</u>	<u>See below</u>	<u>See below</u>	<u>See below</u>

Explanation of Estimate:

LB 1133 increases the caps on medical malpractice liability in the Nebraska Hospital-medical Liability Act and changes provisions relating to proof of financial responsibility and the Excess Liability Fund.

It is unknown what the exact financial impact will be to providers, however, it is anticipated that the cost of insurance to such medical providers will increase and such increase in costs would be passed along and increase the cost of services being provided as a result of these changes. Any increases in service costs would impact the amount of claims paid by State's Health Plans, requiring increases in premiums.

The medical plans for the State of Nebraska are self-insured. The medical plan premiums are paid by the State of Nebraska (79%) and employees (21%).

The table below summarizes the estimated impact by fund type of any premium increase. The allocation by fund type is based on a four (4) year [2016-2019] average of benefits paid.

Fund Type	Percentage by Fund Type
General Fund	52%
Cash Fund	26%
Federal Fund	18%
Revolving Fund	4%
Total	100%

Any impact to a covered provider in a Dental or Vision Plan could result in increased costs and increased premiums. The Vision and Dental plan premiums are wholly paid by State of Nebraska employees.

There is an unknown fiscal impact for LB 1133 as introduced.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2020-21</u>	<u>2021-22</u>
	<u>20-21</u>	<u>21-22</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....				
Operating.....				
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....				

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2020

LB⁽¹⁾ 1133

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Department of Insurance

Prepared by: ⁽³⁾ Thomas Green II Date Prepared: ⁽⁴⁾ 2/6/2020 Phone: ⁽⁵⁾ 402-471-4650

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2020-21</u>		<u>FY 2021-22</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	\$24,000	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	*	*	*	*
TOTAL FUNDS	<u>\$24,000</u>	_____	_____	_____

Explanation of Estimate:

LB1133 increases the medical malpractice caps, effective January 1, 2020. Because of the retroactive nature of the statute, all existing malpractice policies will need to be replaced immediately upon passage of the bill. Because medical malpractice policies must be approved by the Department before they can be used, the change in the caps outlined in the bill will require each insurer to file both new rates and policies, incorporating the new caps, with the Department of Insurance. Due to the nature of insurance filings, insurers prefer to collect as much data as is possible before submitting rates for review. The result is that all filings are generally done at or very near to the filing deadline. Because of the substantial increase in the caps brought about by this bill, it is anticipated that all existing med mal policies will be replaced even if the bill were not retroactive. The volume and timing will necessitate the Department retaining the services of outside consultants to assist with the review and approval of all rate and policy filings. Due to the immediacy brought about by the retroactive start date, it is anticipated that an amount above the regular rates charged by the consultants for their services will have to be paid in order to pull them away from assignments or contracted work that may already be underway at the time. The Department's best estimate of costs required to retain such consultants is approximately \$24,000.

It should also be pointed out that this bill will almost certainly result in an increase in medical costs to both the state and its citizens, but we cannot reasonably estimate the amount of such increase at this time.

* In addition to the above paragraphs, the Nebraska Hospital-Medical Liability Act Excess Liability Fund will see increased revenues and expenditures. By increasing the layer of primary coverage required by participants and simultaneously increasing the overall claims cap, surcharge payments in and claim payments out will likely be increased. While incalculable at this time, the revenue and expenditure increases should largely balance out, as the Department of Insurance annually sets surcharge rates for participants in the fund that are intended only to cover expected costs. The surcharge rate is not intended to maintain a cash balance in the fund, and as such over time the increases in revenues and expenditures should offset one another.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2020-21</u>	<u>2021-22</u>
	<u>20-21</u>	<u>21-22</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____

Benefits				
Operating				
Travel				
Capital outlay				
Aid				
Capital improvements				
TOTAL				

Please complete ALL (5) blanks in the first three lines.

2020

LB⁽¹⁾ 1133

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ University of Nebraska

Prepared by: ⁽³⁾ Michael Justus Date Prepared: ⁽⁴⁾ Feb 22, 2020 Phone: ⁽⁵⁾ 402-472-7109

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2020-21</u>		<u>FY 2021-22</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>635,112</u>	<u> </u>	<u>770,112</u>	<u> </u>
CASH FUNDS	<u> </u>	<u> </u>	<u> </u>	<u> </u>
FEDERAL FUNDS	<u> </u>	<u> </u>	<u> </u>	<u> </u>
OTHER FUNDS	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TOTAL FUNDS	<u>635,112</u>	<u> </u>	<u>770,112</u>	<u> </u>

Explanation of Estimate:

LB1133, relating to the Nebraska hospital-Medical Liability Act, if passed would increase caps for physicians on medical malpractice liability and change provisions relating to proof of financial responsibility and the Nebraska Excess Liability Fund (NELF). For physicians at UNMC, mostly house officers, the amount for proof of financial responsibility would change from \$500,000 to \$5 million, which would raise UNMC's annual premium from \$581,888 currently to \$1,082,000, an increase of \$500,112. The total amount recoverable under the Nebraska Hospital-Medical Liability Act from any and all health care providers and the NELF for any occurrence resulting in any injury or death of a patient currently does not exceed \$2,250,000 for any occurrence. If passed, LB1133 would increase the total amount recoverable to ten million dollars for any occurrence after December 31, 2020. UNMC's current annual payment to the NELF, using the current rate of 45%, is \$253,000. Because the proposal includes raising the cap of the NELF to \$10 million, our estimated payment to the NEFL (using the maximum rate of 50%) would be \$523,000. We would need to pay the current rate plus half of the difference of \$270,000 (\$135,000) for the FY 2020-21 (assuming the current rate for half of the year and the increased rate for half of the year), since it starts in January 2021. The full amount would apply the next year.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2020-21</u>	<u>2021-22</u>
	<u>20-21</u>	<u>21-22</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Operating.....			<u>635,112</u>	<u>770,112</u>
Travel.....			<u> </u>	<u> </u>
Capital outlay.....			<u> </u>	<u> </u>
Aid.....			<u> </u>	<u> </u>
Capital improvements.....			<u> </u>	<u> </u>
TOTAL.....			<u>635,112</u>	<u>770,112</u>